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STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of John McNamara, New Britain File No. 2008-134

AGREEMENT CONTAINING CONSENT ORDER
AND PAYMENT OF A CIVIL PENALTY FOR
VIOLATIONS OF CONNECTICUT GENERAL STATUTES §§ 9-607 (k), 9-608 (c), 9-622 (10) and 9-704 (c)

This agreement, by and between Gary Zeil of the City of New Britain, County of Hartford, State of Connecticut, hereinafter referred to as the Respondent, and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and Section 9-7b-54 of the Regulations of Connecticut State Agencies. In accordance herewith, the parties agree that:

1. The Complainant, John McNamara, a resident of the City of New Britain, alleges that Thomas Evanko made a $25.00 contribution to the Bozek for Senate candidate committee while the spouse of a communicator lobbyist.

2. The Complainant also alleges other violations of election law. The allegations concern additional Respondents and, as such, will be addressed in separate documents.

3. Thomas Bozek was the Republican candidate for state senate for the 6th District in the November 4, 2008 state election. On August 29, 2008, he registered with the Commission a candidate committee (hereinafter the "Committee") to finance his candidacy. Mr. Bozek also agreed to participate in the Citizens' Election Program and was approved for a grant from the Citizens' Election Fund on October 15, 2008.

4. The Respondent was the legally designated treasurer of the Committee. He also certified to the Commission that the Committee had returned or transmitted to the Citizens' Election Fund all contributions or portions of contributions that did not meet the criteria for qualifying contributions under General Statutes § 9-704.

5. General Statutes § 9-610 (g) provides in relevant part as follows:

> No . . . **member of the immediate family of a communicator lobbyist** . . . shall make a contribution or contributions to, or for the benefit of (1) . . . a candidate committee established by a candidate for nomination or election to the office of . . . state senator . . . . [Emphasis added]

6. General Statutes § 9-601 defines the terms "immediate family" and "communicator lobbyist." It provides as follows in pertinent part:

> As used in this chapter and sections 9-700 to 9-716, inclusive:
>
> . . .
>
> (16) "Lobbyist" means a lobbyist, as defined in section 1-91 and "communicator lobbyist" means a communicator lobbyist, as defined in section 1-91.
>
> . . .
>
> (24) "Immediate family" means the spouse or a dependent child of an individual. . . .

7. General Statutes § 1-91 provides in relevant part that:

> (k) "Lobbying" means communicating directly or soliciting others to communicate with any official or his staff in the legislative or executive branch of government or in a quasi-public agency, for the purpose of influencing any legislative or administrative action except that the term "lobbying" does not include (1) communications by or on behalf of a party to, or an intervenor in, a contested case, as described in regulations adopted by the commission in accordance with the provisions of chapter 54, before an executive agency or a quasi-public agency, as defined in section 1-79, (2) communications by a representative of a vendor or by an employee of the registered client lobbyist which representative or employee acts as a salesperson and does not otherwise engage in lobbying regarding any administrative action, (3) communications by an attorney made while engaging in the practice of law and regarding any matter other than legislative action as defined in subsection (j) of this section or the proposal, drafting, development, consideration, amendment, adoption or repeal of any rule or regulation, or (4) other communications exempted by regulations adopted by the commission in accordance with the provisions of chapter 54.
>
> (l) "Lobbyist" means a person who in lobbying and in furtherance of lobbying makes or agrees to make expenditures, or receives or agrees to receive compensation, reimbursement, or both, and such compensation, reimbursement or expenditures are two thousand dollars or more in any calendar year or the combined amount thereof is two thousand dollars or more in any such calendar year. . . .
>
> (v) "Communicator lobbyist" means a lobbyist who communicates directly or solicits others to communicate with an official or his staff in the legislative or executive branch of government or in a quasi-public agency for the purpose of influencing legislative or administrative action. . . .

8. General Statutes § 9-622 (10) states that, among others, "[a]ny person who . . . receives a contribution that is otherwise prohibited by any provision of this chapter" shall be guilty of committing an illegal practice.

9. Furthermore General Statutes § 9-704 (c)(1) provides that a contribution from a member of the immediate family of a communicator lobbyist shall be returned by the campaign treasurer of the candidate committee to the contributor."

10. On the October 10, 2008 Itemized Campaign Finance Disclosure Statement (SEEC Form 30) ("the Statement") for Mr. Bozek's candidate committee, Respondent Zeil reported a contribution by Thomas Evanko in the amount of $25.00. Mr. Evanko admits making that contribution.

11. On that Statement, the Respondent failed to report that Mr. Evanko was the spouse of a lobbyist. However, Mr. Evanko is and was the spouse of Ann Hogan, a registered in-house communicator lobbyist for Yale New Haven Health System, at the time he made the $25.00 contribution. Mr. Evanko even disclosed that he was the spouse or dependent child of a communicator lobbyist on the Qualifying Contribution Certification Form that accompanied his contribution.

12. The Commission concludes that Mr. Evanko's contribution was prohibited by General Statutes § 9-610 (g).

13. Nevertheless, the Respondent deposited the contribution and did not offer to return it until October 27, 2008, after he became aware of the allegations set forth in the Complaint.

14. The Commission therefore concludes that the Respondent violated General Statutes § 9-704 (c) by failing to return Mr. Evanko's contribution. The Respondent is also guilty of committing an illegal practice pursuant General Statutes § 9-622 (10) by receiving a contribution prohibited by General Statutes § 9-610 (g).

15. The Respondent also violated General Statutes § 9-608 (c)(1)(I) which states in pertinent part that:

> **Each statement filed under subsection (a), (e) or (f) of this section shall include**, but not be limited to: . . . **(I) for each itemized contribution made by** a lobbyist, **the spouse of a lobbyist** or any dependent child of a lobbyist who resides in the lobbyist's household, **a statement to that effect**. . . . [Emphasis added.]

16. As previously noted, the Respondent failed to disclose that Mr. Evanko was the spouse of a lobbyist on the appropriate disclosure statement.

17. With respect to each violation, the Respondent admits that Mr. Evanko disclosed to the Committee that he was an immediate family member of a communicator lobbyist. The Respondent further admits that he knew the lobbyist ban applied to spouses of lobbyists but that he just failed to notice that Mr. Evanko identified himself as such on the contributor form and thus, failed to disclose that fact on the Committee's disclosure Statement. The Respondent maintains that his errors were good faith mistakes rather than intentional violations of the law and the Commission has found no evidence to the contrary.

18. The Respondent also violated 9-607 (k) which provides in pertinent part as follows:

    A candidate shall report to his campaign treasurer each campaign expenditure of more than fifty dollars which he ahs made directly from his own personal funds. . . . The candidate shall indicate whether or not he expects reimbursement by the committee. **The campaign treasurer shall report all such reimbursed . . . expenditures as "campaign expenses paid by the candidate" on the sworn financial statements he is required to file in accordance with section 9-608 and in the same manner as committee expenditures.** [Emphasis added.]

19. The Itemized Campaign Disclosure Statement of the Committee (SEEC Form 30) that was filed on November 3, 2008 reflect an expenditure to Thomas Bozek in the amount of $210.00. This expenditure is described as "Reimbursement for Postage." That expenditure is associated with a mailing that was sent out by the Mr. Bozek in September of 2008. Mr. Bozek admits paying for that mailing with personal funds.

20. While the Respondent reported the reimbursement as an expenditure, he failed to also report that expenditure as a campaign expense paid by the candidate. The Commission therefore concludes that the Respondent violated General Statutes § 9-607 (k).

21. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

22. It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

23. The Respondent waives:

a. Any further procedural steps;
b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
c. All rights to seek judicial review or otherwise to challenge or contest the validity of the agreement or Order entered into pursuant to this agreement.

24. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with General Statutes §§ 9-607 (k), 9-608 (c) and 9-704 (c) and shall not commit an illegal practice as set forth in General Statutes § 9-622 (10).

IT IS FURTHER ORDERED that on or before February 11, 2008, the Respondent, shall pay a civil penalty in the amount of eight hundred dollars ($800.00) to the Commission.

For the State of Connecticut

Dated: 2/5/07

BY:

Joan M. Andrews, Esq.
Director of Legal Affairs
And Enforcement and
Authorized Representative of
the State Elections
Enforcement Commission
20 Trinity St., Suite 101
Hartford, Connecticut

Dated: Feb 5 2009

The Respondent,

Gary Zeil
341 Chapman Street
New Britain, CT 06051

Adopted this 11th day of February, 2009 at Hartford, Connecticut

Stephen F. Cashman, Chairman
By Order of the Commission